

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

SONY MUSIC ENTERTAINMENT, *et al.*,

Plaintiffs,

v.

COX COMMUNICATIONS, INC., *et al.*,

Defendants.

Case No. 1:18-cv-00950-LO-JFA

**CONSENT MOTION FOR PARTIES AND NON-PARTIES TO EACH FILE A SINGLE
MEMORANDUM IN SUPPORT OF SEALING MOTIONS RELATED TO THE PARTIES’
SUMMARY JUDGMENT AND DAUBERT MOTIONS AND COX’S SANCTIONS MOTION**

Pursuant to Rule 26 of the Federal Rules of Civil Procedure, and Local Civil Rule 5(C), Plaintiffs, Defendants and interested non-parties Audible Magic, MarkMonitor, and the Recording Industry Association of America (“RIAA”), jointly request the Court’s permission to each file a single memorandum in support of the numerous requests to seal submitted in connection with the parties’ summary judgment and Daubert motions and Cox’s sanctions motion.

This Consent Motion is based on the following grounds:

1. On August 14, 2019, Cox filed a Motion for Discovery Sanctions and to Preclude Plaintiffs’ Use of MarkMonitor Evidence (ECF No. 241). In connection with that motion, Cox filed a Motion to Seal (ECF No. 243).

2. Plaintiffs (ECF No. 255), MarkMonitor (ECF No. 262), and Audible Magic (ECF No. 276) thereafter each filed memoranda in support of portions of Cox’s August 14 seal motion. On August 29, 2019, having considered Cox’s motions and the supporting memoranda of Plaintiffs, MarkMonitor and Audible Magic, the Court granted Cox’s motion to seal. (ECF No. 279).

3. On August 30, 2019, the parties each filed a motion for summary judgment (ECF Nos. 312, 328) and, collectively, nine Daubert motions (ECF Nos. 285, 287, 289, 291, 293, 300, 303, 306, 309) (collectively with Cox's sanctions motion, the "Motions").

4. The parties' Motions referenced and attached as exhibits documents and information designated by the parties and/or various nonparties as Highly-Confidential – Attorneys' Eyes Only or Confidential under the Stipulated Protective Order (ECF No. 58). In addition to Cox's motion to seal on its sanctions motions, the parties both filed motions to seal under Local Civil Rule 5(C) in connection with their summary judgment and Daubert motions. (ECF Nos. 327 and 331).

5. Cox and Plaintiffs will each file oppositions to the other parties' summary judgment and Daubert motions by September 24, 2019 and replies by October 11, 2019. The hearing is set for October 18, 2019.

6. In addition, Plaintiffs will oppose Cox's sanctions motion on September 13, 2019, and Cox will file a reply on September 20, 2019.

7. Accordingly, over the next five weeks, Plaintiffs and Defendants will each file twelve briefs in connection with the Motions, which they expect will or may attach additional confidential information of the same parties and non-parties. Plaintiffs and Defendants expect to file motions to seal in connection with those briefs, if applicable.

8. Local Civil Rule 5(C) requires the parties and interested non-parties who designated the sealed information as confidential to, within seven (7) days, file a memorandum in support of the seal motion. This rule's application would cause the parties to file numerous repetitive memoranda in support of sealing various documents used throughout the parties' briefing and require the Court to address the same or similar issues repeatedly.

9. In the interest of efficiency, judicial economy and avoiding inconsistent rulings, the parties and non-parties jointly request the Court's permission to each file one single memorandum in support of the numerous requests to seal. They further request the information subject to the sealing motions in connection with the Motions be maintained under seal pending resolution of the respective seal motions.

10. The procedural prerequisites for sealing will still be met. The parties will provide a supporting memorandum as required by Local Civil Rule 5(C), but in a consolidated form that avoids duplicative filings.

11. Granting this motion will not cause any prejudice to the parties or non-parties, nor impact the public's access to judicial records. Each interested party and non-party will still have ample notice and an opportunity to reasonably object.

12. Plaintiffs, Defendants, MarkMonitor, Audible Magic and RIAA all consent to the relief requested herein.

Based on the foregoing, the schedule on remaining seal issues in connection with the parties' summary judgment and Daubert motions and Cox's sanction motion would be as follows:

Date	Deadlines
September 13, 2019	Plaintiffs' Opposition to Cox's Motion for Sanctions (ECF No. 241). Plaintiffs to file a Motion to Seal and Notice of Sealed Filings, if applicable.
September 20, 2019	Cox's Reply in support of its Motion for Sanctions (ECF No. 241). Cox to file a Motion to Seal and Notice of Sealed Filings, if applicable.
September 24, 2019	Plaintiffs' and Defendants' Oppositions to motions for summary judgment (ECF Nos. 312, 328). Plaintiffs' and Defendants' Oppositions to Daubert motions (ECF Nos. 285, 287, 289, 291, 293, 300, 303, 306, 309).

	Plaintiffs and Defendants to each file a Motion to Seal and Notice of Sealed Filings, if applicable.
October 11, 2019	Plaintiffs' and Defendants' Replies to motion for summary judgment (ECF Nos. 312, 328) Plaintiffs' and Defendants' Replies to Daubert motions (ECF Nos. 285, 287, 289, 291, 293, 300, 303, 306, 309). Plaintiffs and Defendants to each file a Motion to Seal and Notice of Sealed Filings, if applicable.
October 18, 2019	Plaintiffs and Defendants to each file a single memorandum in support of the other parties' Motions to Seal filed in connection with the Motions.
October 25, 2019	MarkMonitor, Audible Magic and RIAA to each file a single memorandum in support of the parties' Motions to Seal filed in connection with the Motions.

Dated: September 6, 2019

Respectfully submitted,

/s/ Scott. A Zebrak

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